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7:46AM

October 14, 2009

**Via Email and Hand Delivery**

Hon. Shira A. Scheindlin  
United States District Judge  
U.S. District Court, Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *City of New York v. ExxonMobil*, 04 CV 3417 (SDNY)  
Supplemental Proffer of Evidence in Support of the City's Punitive  
Damages Claim

Dear Judge Scheindlin:

In addition to the Phase III testimony and documents submitted on October 12 in support of the City's punitive damages claim, the City wishes to submit the following citations to the trial transcript, which relate to ExxonMobil's malicious or wanton and reckless failure to warn:

| DATE   | TRANSCRIPT CITATION [PAGE:LINE]            |
|--------|--|
| 9/2/09 | 3347:17-3348:25 (Moreau)                   |
| 9/3/09 | 3491:17-3492:17 (Roman)                    |
| 9/3/09 | 3493:23-3498:25 (Roman)                    |
| 9/4/09 | 3674:3-22 (Dugan)                          |
| 9/9/09 | Larkins Deposition (3/07/08) 467:24-468:4  |
| 9/9/09 | Larkins Deposition (3/06/08) 216:10-217:05 |

The City reserves the right to supplement the evidence described above with other evidence in the record, including evidence entered during Phase II, evidence that has not yet been entered, and evidence cited in its previous letters to the Court. We appreciate the Court's time and attention to this matter and respectfully ask that this letter be filed with the Clerk's Offices so that it is part of the trial record for this case.

Respectfully submitted,

Victor M. Sher

Cc: All Counsel via LNFS & Email